HIGH COURT OF UTTARANCHAL AT NAINITAL

Writ Petition no.5601 OF 2001 (MS)

Ramsingh S/o Sri Devi Singh r/o village Bhawantpur, Kashipur, Tehsil & post Kashipur, District Udhma Singh Nagar .....Petitioners.

Versus

1. The District Magistrate/Deputy Director of Consolidation, Udham Singh Nagar
2. Rajednra Singh s/o Sri Ajayab Singh
3. Kashimir Singh s/o Sri Anoop Singh
4. Snatosh Singh s/o Sri Anoop Singh
5. Amir Singh s/o Sri Anoop Singh
7. Sri Mukhya Dalebora s/o Sri Ram Singh
8. Smt. Murali Devi w/o Sri Sitaram

All resident of village Bhagwantpur, Kashipur, District Udham Singh Nagar .....Respondents.

Dated: 18.08.2006

Sri Ramji Srivastava, Advocate for the petitioner
Sri B.D. Kandpal, Advocate for the respondents no. 2, 3,4 and 5
Standing counsel for respondent no.1.

Hon'ble Rajesh Tandon, J.

Heard Sri Ramji Srivastava counsel for the petitioner and Sri B.D. Kandpal and Standing Counsel for the respondents.

By the present writ petition, the petitioner has prayed for a writ of certiorari quashing the order-dated 6.10.2001 passed in Revision No.52/08 of 2000-2001 by the Deputy Director of Consolidation, Udham Singh Nagar.

Briefly stated, consolation proceedings were stared in the village Bhagwantpur, Tehsil Kashipur, District Udham Singh Nagar of which the petitioner is a resident. Against the

proposal of chaks prepared by the Assistant Consolidation Officer, the petitioner preferred an objection under section 9 of the U.P. Consolidation of Holdings Act, for valuation of the chaks and thereafter filed another objection under section 20 of the U.P Consolidation of Holdings Act.

On the objections filed by the petitioner under section 9 of the U.P. Consolidation of Holdings Act, a case was registered as Case No. 1519 of 1997. the Consolidation Officer has decided the objections vide judgment and order dated 30.10.1997. He allowed the objection and passed the following order:

आदेश

उपरोक्त विवचना के आधार पर आपत्ति स्वीकार की जाती है तथा ग्राम भगवन्तपुर परगना व तहसील काशीपुर के आकार पत्र 23 भाग 1 में चक सं0 85 के गाटा सं0 100 रकवा 0.061 गाटा सं0 125 रकवा 0.154 गाटा सं0 128 रकवा 0.202 गाटा सं0 130/1 रकवा 0.030 गाटा सं0130/2 रकवा 0.120 गटा सं0 130/3 रकवा 0.010 है0 की कीमत 0.60 पैसे नियत करते हुए आकार पत्र 23 भाग 1 उद्वरण जारी करके आदेश खुले न्यायालय में पढ़कर सुनाया गया । पत्रावली वाद अमल दरामद दाखिल दफतर हो ।

The objections filed by the petition under section 20 of the U.P. Consolidation of Holdings Act, were registered as case No.8 of 1997, which were allowed vide judgment and order dated 25.11.1998 by the Consolidation Officer, who passed the following order:

आदेश

आदेश हुआ कि जो चक संसोधन तालिका तैयार की गयी है जिस पर मेरे हस्ताक्षर हैं आदेश का अंग रहेगी के अनुसार अभिलेखो में अमल दरामद किया जावे । इस संशोधन में चक सं0 76, 85श 141 अ, 47, 58, 73, 21, 117, 5, 62 सेक्टर मार्ग, चक मार्ग, नाली रास्ता प्रतीत होते है। प्रभावित चकदारों को आकार पत्र 23 भाग 1 उद्वरण जारी हो ।

चकबन्दी अधिकारी, काशीपुर

The order-sheet shows that this order was complied with on 5.12.1998.

Against the aforesaid orders dated 30.10.1997 and 25.11.1998 the respondents filed a common appeal before the Settlement Officer under section 21 (2) of U.P. Consolidation of Holdings Act, which was registered as Appeal No. 110/353. As the appeal was barred by limitation, therefore, an application under section 5 of the Limitation Act was also filed along with the memo of appeal.

The appeal was dismissed by the Settlement Officer vide order dated 28.4.2000, on the ground that appeal has been filed against three different orders under section 21 (2) of U.P. Consolidation of Holdings Act, while the orders have been passed under section 9B of U.P. Consolidation of Holdings Act, and copies of the orders have also not been filed and further that the appeal is barred by limitation.

Against the aforesaid order the respondents have preferred a revision under section 48 of the U.P. Consolidation of Holdings Act before the Deputy Director of Consolidation. The said revision was allowed by the Deputy Director of Consolidation, Udham Singh Nagar vide order dated 6.10.2001 and the same was remanded to the appellant authority. Against the order passed by the revisional court the present writ petition has been filed.

The counsel for the petitioner has submitted that the revisional court has exercised the jurisdiction not vested in it and has interfered with the findings of fact.

The counsel has relief upon the case Ram Nath vs. D.D.C. 1997 RD 94, in which it has been held that there can be no escape form the conclusion that the jurisdiction with which the

Deputy Director of Consolidation stands vested under the provision contained in Section 48 of the Act, cannot be deemed to be such as an appellate power as is vested in the appellate Authority envisaged under the Act.

In the present case the revisional court has remanded the case to the Consolidation Officer.

In view of the above, the order of remand dated 6.10.2001 passed by the Deputy Director of Consolidation, Udham Singh Nagar requires no interference and liberty is given to the parties to raise their grievances before the Consolidation Officer, Kashipur who shall pass a fresh order in accordance with law.

Accordingly, writ petition is disposed of. No order as to costs.

Rajesh Tandon, J.

18.08.2006

*Dhyani